

**SUBMITTAL TO THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**

361



FROM: Clerk of the Board

SUBMITTAL DATE: March 8, 2011

SUBJECT: Establishment of a Filing Fee for Applications for Changed Assessment

RECOMMENDED MOTION: Adoption of Resolution No. 2011-053, Amending the Rules of Notice and Procedure of the Assessment Appeals Boards of the County of Riverside to establish the above-referenced fee.

BACKGROUND: During budget hearings, the Board directed staff to determine whether persons seeking a change in the assessed value of their property could be charged an application filing fee, the purpose of which would be to defray the County's processing costs.

With the assistance of County Counsel, we have determined that such a fee may be charged and that many other counties have already established such a fee. The fee amount proposed is \$30.00. The fee would apply to all applications (residential and commercial) filed on or after July 1, 2011 and would be nonrefundable. Based on 18,000 projected applications for changed assessment, we estimate that the County could recoup at least \$540,000 annually if the fee were adopted as proposed.

(continued on page 2)

Kecia Harper-Ihem
Kecia Harper-Ihem, Clerk of the Board

FINANCIAL DATA	Current F.Y. Total Cost:	\$ 0	In Current Year Budget:
	Current F.Y. Net County Cost:	\$ 0	Budget Adjustment:
	Annual Net County Cost:	\$ 0	For Fiscal Year: 11/12

SOURCE OF FUNDS:	Positions To Be Deleted Per A-30	<input type="checkbox"/>
	Requires 4/5 Vote	<input type="checkbox"/>

C.E.O. RECOMMENDATION:

APPROVE
BY: *Lani Sioson*
Lani Sioson

County Executive Office Signature

MINUTES OF THE BOARD OF SUPERVISORS

On motion of Supervisor Stone, seconded by Supervisor Buster and duly carried. IT WAS ORDERED that the above matter is approved as amended to include that if an applicant prevails on their assessment appeal challenge the \$30 fee is refunded within 30 days

Ayes: Buster, Stone and Ashley
Nays: None
Absent: Tavaglione and Benoit
Date: May 3, 2011
xc: COB, Auditor, Co.Co., Assessor

Kecia Harper-Ihem
Clerk of the Board
By: *[Signature]*
Deputy

Prev. Agn. Ref.: **District:** A11 **Agenda Number:**

3.1 a

FISCAL PROCEDURES APPROVED
BY: PAUL ANGULO, CPA AUDITOR-CONTROLLER
BY: *[Signature]*
BY: RUSSELL S. DOMINSKI
Departmental Conf. 4-13-11

FORM APPROVED COUNTY COUNSEL
BY: *[Signature]* A. Lind
BY: KATHERINE A. LIND
DATE: 04/13/11

Dept't Recomm.: Consent Policy
Per Exec. Ofc.: Consent Policy

Form 11 – Assessment Appeal Fee

March 8, 2011

Page 2

The Board inquired about the possibility of increasing the fee to \$50.00 and refunding it if the applicant were successful. While the Auditor would not support a fee higher than \$30.00 we were advised that a special account could be created from which refunds of the \$30.00 could be made to successful applicants. In all cases where refunds were made, however, the County would not recoup any of its processing costs. For this reason, we are recommending that the fee be made nonrefundable.

2 RESOLUTION NO. 2011-053
3 AMENDING THE RULES OF NOTICE AND PROCEDURE
4 OF THE ASSESSMENT APPEALS BOARDS OF THE COUNTY OF RIVERSIDE

5 WHEREAS, Article XIII, Section 16 of the California Constitution empowers county
6 boards of supervisors to adopt rules of notice and procedure for assessment appeals boards as may be
7 required to facilitate their work and to insure uniformity in the processing and decision of equalization
8 petitions; and,

9 WHEREAS, the Board of Supervisors has adopted the Rules of Notice and Procedure of
10 the Assessment Appeals Boards of the County of Riverside ("Rules of Notice and Procedure") to guide
11 parties in proceedings before the Assessment Appeals Boards; and,

12 WHEREAS, the Board of Supervisors has determined it is appropriate to establish a filing
13 fee to recover costs incurred by the Clerk of the Board in processing applications for changed
14 assessment; and,

15 WHEREAS, the Clerk of the Board has proposed a fee amount that is reasonable and
16 applied in a uniform manner; now therefore,

17 BE IT RESOLVED, FOUND, DETERMINED, AND ORDERED by the Board of
18 Supervisors of the County of Riverside, in regular session assembled on April 26, 2011, that a new
19 subsection (e) is added to Rule 6 of the Rules of Notice and Procedure to read as follows:

20 1. Rule No. 6
21 APPLICATION FOR CHANGED ASSESSMENT

22 "(e) FILING FEE

23 The applicant shall pay a \$30.00 nonrefundable fee at the time of filing an
24 application. The fee may be waived where the applicant would qualify for a
25 waiver of court fees and costs pursuant to Government Code section 68632."

- 2 Existing subsections (e), (f), (g) and (h) of Rule No. 6 are re-lettered subsections (f), (g),
(h) and (i) respectively.

BE IT FURTHER RESOLVED by the Board that the foregoing fee shall apply to
applications for changed assessment filed on or after July 1, 2011.

FORM APPROVED COUNTY COUNSEL
BY: ~~KATHERINE A. LIND~~ KATH A. LIND 04/13/11 DATE

Verbatim

Item 3.1 of May 3, 2011

(9.25) {Chairman Buster} Supervisor Stone, Items 3.1a and 3.1b - these are resolutions and motions that would establish a filing fee for applications, - Assessment Appeals Applications. Supervisor Stone?

{Supervisor Stone} Thank you Mr. Chair. 3.1a is establishes a fee for those that are requesting an assessment appeal before the County of Riverside, to challenge property values that the Assessor has determined there property values to be. And certainly there's an administrative cost to providing the extensive number of appeals that we see. There are some people that will just file an appeal just to see if they can get their property tax lowered. They may not justifiably have a good case. However, there are a number of people that legitimately have value concerns where properties within their neighborhood have sold significantly less via free market sale or via short sale, that would diminish the value of their property, and thereby lower their property taxes.

According to the staff report, the fee is \$30. It's non-refundable. I don't have a problem with the fee being charged for an assessment appeal as long as that if somebody does prevail on that challenge, that their fee get refunded.

During the initial discussions of this, I had suggested the fee be \$50, and thereby making sure the County has the appropriate fees to cover the costs, but without that provision in there, I can't support it. This is just nothing more than a tax and it's imposed on people that should have due process at government expense, if you will, when the government is telling them that their property is worth more than the market really bears. So, without any changes, I have to oppose 3.1a, -

(9:27:02) and then 3.1b is an order initiating an ordinance increasing the fee for preparing written findings of facts and assessment appeals, and I understand that County Counsel has a large workload, and we probably spend more money on legal fees with the, the volume of assessment appeals that are granted, - or denied.

But to take the fee from \$256 to the Applicant, to \$715, - almost a tripling of the fee, to me that just seems outrageous. And if we're going to be increasing the fee commensurate with our costs, I believe we should be phasing this in and not imposing a \$715 because our constituents will balk and justifiably so. It's just an outlandish fee to be charging the public. So those are my concerns on 3.1a and 3.1b.

{Chairman Buster} Other Board Comments: County Counsel?

{Pamela Walls, Co. Co.} I'd just like to clarify for the Board that the, - in lieu of charging a hearing fee for everyone that would otherwise request an assessment appeal board hearing, we've elected to just charge a fee for the preparation of the findings and facts and this would be for example only if you were wanting at the end of your hearing to appeal it to the court. So the number of folks that would otherwise elect to do this and want a record for that court hearing, would be much lower than if you'd spread it across to everybody that wanted a hearing. So we've decided to just charge that fee only for that service and it would include not only the preparation of the findings but it would include having to review the tape and to prepare the facts and to spend the entire hearing time looking at that and also preparing the findings. And that's why the hearing fee is higher now as a result.

{Chairman Buster} Other Board Comments: I just had one, - Supervisor Stone, - I do agree with your concern if somebody wins their appeal outright, that they shouldn't have to pay the \$30 fee, but I don't think the refund for that should just come from other appellants, - it should come from everyone. So that was the problem I had with the \$50 fee, that the other appellants are in effect help paying the cost of those that win rather than the general, general property tax payers. So if we could change that so that if you win your appeal, make it work out what a win is, - I don't know, it may constitute more than just a slight adjustment, but after they define that, that they refund you \$30 fee. Keep all the fees at \$30, and go from there. Is that..?

{Supervisor Stone} I would support that...

{Chairman Buster} Yea. Any other Board Comment? And... Alright. Then - Supervisor, do you want to make a motion?

{Supervisor Stone} If there's no other comments, I'll make the motion that we accept 3.1a as is, however, if an applicant prevails on their assessment appeal challenge, that the \$30 fee is refunded to them within 30 days of the ruling and all of the explanation that was delivered by County Counsel, I can now support 3.1b, so I'll move staff recommendation on that.

{Chairman Buster} Before we vote, I don't know, Mr. Ward or Assessor, sir, do want to say a few words?

{Larry Ward, Assessor} Chairman Buster, Board Members, I was going to keep quiet on this, but I do have a concern about what it, the definition of prevail, because typically on our assessment appeals of, you know, the 25,000 that were filed last year, probably less than 5% actually go to a hearing. And of that, oftentimes there's an adjustment. But again, I'm concerned about the definition of, - and I think...

{Supervisor Stone} The definition is really very clear. You claim that if a property has a certain value, if somebody brings a challenge to you, and if it's decreased by \$10.00 that is an adjustment that should be granted a refund of the fee, so..

{Larry Ward, Assessor} OK. Well, that was my question. The definition of...

{Supervisor Stone} Yea. Any reduction in the property tax is commiserate with a victory for the taxpayer. ... that necessitates a refund.

{Chairman Buster} Supervisor Benoit?

{Supervisor Benoit} Mr. Ward? Could I ask a couple more questions?

{Chairman Buster} Larry?

{Supervisor Benoit} When we discussed this before, you had presented some information about the number of other counties that do a fee of this nature.

Remind me of that discussion. How many of our neighbors charge a fee for this type of service?

{Larry Ward, Assessor} I think there is 15 or 20 counties, - San Bernardino recently did. I'm not aware, except maybe San Francisco, of any county that provides a refund on the applicant, depending on whether or not the applicant prevails. I think clearly that the cost is for the Clerk of the Board for the processing of the application. The Assessor is not getting any fee out of it. Neither is County Counsel. So it's really just the cost of processing. And I would say, you know, while there are times when our values maybe high, maybe low, our goal is to put fair market value on each and every property. We're doing that now. We're looking at over 400,000 properties as we speak, so again there are going to be cases where the values are contested, but - but again, our goal is to put fair market value on those properties.

{Supervisor Benoit} In ...

{Kecia Harper-Ihem, COB} Supervisor Benoit? I just wanted to say I had staff research that this morning. It's roughly 23 or 24 counties that have the fee and all but 2 are non-refundable. And the 2 that are non-refundable, they have a scale and some other things going on, - one was King's County, and I can't recall the other one, so, - all the other counties are non-refundable fee.

{Supervisor Benoit} A non-refundable, - non-refundable fee. That's the, - my experience. And I had a, as I discussed earlier, a property in Sacramento that I filed the \$30 fee and got a slight adjustment after they appeal of a further reduction in assessed value. What does the cost of the appeal - I understand there's an appeal board - how many members are there? What's the typical time involved, I mean, I'd like to get a sense of what this \$30 is in relation to the cost of the County for the appeal board process per appeal.

{Kecia Harper-Ihem, COB} The, - We have 15 appeals board members. We have 5 appeals boards. Generally, the idea of the filing fee is a filing or processing fee for which when we receive the application, the Clerk of the Board's Office receives the application and reviews it, gets it into the system and gets it ready for the hearing.

And then at the appropriate time, once the hearing notices have gone out, we prepare those, send those out to the property owners, so there's a whole that's happened with the application before it gets to a hearing.

Withdrawn
Staff indicates that even before it gets to a hearing, an application 75% of the time is redrawn by the property owner, and even those that make it to a hearing on an agenda, - 75% of those prior to the start of that hearing, are also withdrawn.

{Supervisor Benoit} What's the common reason for withdrawing so many of them?

{Kecia Harper-Ihem, COB} That I don't know.

{Supervisor Benoit} And so then you have a hearing, - there are how many people in the hearing room, - how long is a hearing?

{Kecia Harper-Ihem, COB} The agenda is typically 150 items. And for the most part, we see roughly 7 to 10 people who actually appear to be heard.

{Supervisor Benoit} So there's a lot of time spent setting up for people who for the most part don't show up.

{Kecia Harper-Ihem, COB} That is correct.

{Supervisor Benoit} Yea. You know, I think that the \$30 fee is reasonable. I think that in today's environment where we're struggling to stay afloat and provide good service, it's a very-very small fee for an awful lot of process that has to take place for each one of these appeals. I am sympathetic to the Supervisor's concern, but it's such a small amount of money that I think we're probably going to - it's going to cost us a great deal more than \$30 to refund the fee in those cases. And then the other thing is that I think that probably there's a sense that we want to try and be fair. I'm guessing that a huge number of those cases that actually end up in a hearing do get at least a \$10 reduction. Well could you give us a sense of how many of those we're going to have?

{Larry Ward, Assessor} Well, typically, the, you know, I guess a couple comments: One is that you know we think of filing an assessment appeal as the kind of the last result. If the taxpayer's contacted us, we go over the comparables with them. We try to explain at how we arrived at that value. But there are cases where we agree to disagree.

I would say a lot of times what we're seeing now is appeals ^{they're} are filed by agents, mostly in commercial, but also some in residential where ~~their~~ working on a percentage and it really oftentimes is unfortunate, because it's not about value, it's about you know how much money can they make by filing the assessment appeal. But it's, if we make a reduction usually a reduction would not be made for less than say \$5,000-\$10,000 which would be \$50 to \$100 in property tax savings.

{Supervisor Benoit} \$50 to \$100 in property tax savings. Yea. Ok. Yea, I would really like to - I guess the motion we have before us involves a refund, and I think that that's going to cost us more than it means to the people getting the refund really. And as a result, I'm very leery to do that.

(9:37:37) So I won't support that process. I would support the stand-up motion on its own, and ..

{Chairman Buster} Just.. We got a few other comments I've got... I think you did such a great job at actually lowering the fees before any appeals are filed that you'll have very few of clear cut cases where your valuation is off. And in those cases where you know, the county makes a mistake, it's usually inadvertent, then that would be the kind of case where a refund would be in order, it seems to me.

Supervisor Tavaglione?

(9:38:08) {Supervisor Tavaglione} Thank you Mr. Chair. I tend to agree with Supervisor Benoit. I understand Supervisor Stone's concern here, but I guess I'm more concerned- I think if I had, if I were able to prevail on an assessment appeal, I'd be happy to spend the \$30. I'm concerned about, and I think most people would, I'm concerned about though the precedent that it sets if we were to go down this path. We charge fees for - that's how we make our money in terms of

the services we provide. We charge fees for building permits. That guarantees no one that they're going to get their building permit. Excuse me, it guarantees no one that they're - if they go thru plan check and get their building - we charge plan check fees. What do we charge for a marriage license?

{Larry Ward, Assessor} \$65. And no guarantees... :)

{Supervisor Tavaglione} And that's my point. We charge \$65 for a marriage license if someone's decides to annul or gets married and annuls do we give them their money back? No. And - it's probably not the best example in the world, but you know, I think there are other examples like that and I'm concerned about the precedent we're setting, so I apologize Supervisor Stone, I just can't support this.

{Chairman Buster} Supervisor Stone? Wanna wind it up...

{Supervisor Stone} Yes. Thank you Mr. Chair, and I certainly appreciate my colleagues point of view. I'm not going to fall on a sword over a \$30 issue, although, I mean, I fully support my motion. But let me just say this, that I think many of our citizens that pay property taxes expect a basic level of service for those property taxes. They help fund the Assessor, they help fund the Sheriff's department. Our Sheriff is \$50,000,000 upside down, that doesn't mean we're going to start charging \$25 a service call every time somebody needs the Sheriff. I think that the imposition of the fee is going to weed out those people that know that their property values are appropriately assessed. Our Assessor has to use computer modeling, a very complicated formulas to place values on properties. You know when you come in for a business license, you get something in return. You come in for a building permit, you may not get it if you don't meet the criteria, but you're expecting to get something in return. This is a case where the government is imposing a value on somebody's property that the property owner says hey, my property isn't worth this. And I have to now go pay a fee to prove to the government that their assessment of my property is wrong. And while there may be those on this Board that think \$30 is not a lot of money, we have a lot of citizens out there struggling to get to the supermarket that have to endure the inflation of gasoline at the pump and inflation of food prices in the grocery stores and \$30 is a lot of money to a lot of our constituents that are really hurting today.

So this is why I believe that the refund is necessary. I think they deserve a basic level of service for the property taxes. Thirteen percent of the property taxes that are paid come to the county to pay for services and I believe there should be a basic level of service in all departments that we deliver. If it wasn't for this economic debacle and the falling of property values, the Assessor wouldn't be seeing the significant number of appeals that exist today because we are still according to the mortgage industry, a declining value market. Your loans that you get if you do an appraisal, the appraisal has an expiration date of 90 days. Because it may be different most likely lower in today's climate, and the banks are very leery and gun-shy of loaning any money in Riverside County until we see some stabilization, unfortunately our Assessor's going to see a lot more appeals. And so I'm just looking out for the taxpayer that is living on limited means. I want to make sure they have the appropriate due process, and will be rewarded with a fee that they shouldn't be paying in the first place as a tax, if in fact their value prevails, either thru the assessment board or assessment officer. But I respect the views of my colleagues.

{Chairman Buster} Alright. Do we have a motion?

{Supervisor Stone} No. I'm not going to change my mind. I'll move 3.1a with the refund. You guys can vote it down and then we can do a new motion. Then we'll do 3.1b separately.

{Chairman Buster} I'll second your motion, particularly in these times there's nothing that can give a bad impression of a county government than the inevitability and possible incorrectness of your property tax. So we ought to treat that with the highest regard and if we make a mistake we need to own up to it. And the way to own up to it is refund the money. And that would guard against more mistakes by the way, after we see what mistakes we have now, and I think our Assessor does a tremendous job so I think we'll have very few of these items. So, I'll second your motion.

And let's vote. And that motion fails. Do we have a counter motion?

I'm sorry - - passes. I'm sorry - I'll be darn.

{Supervisor Stone} Mr. Chair, I'll move staff recommendation on 3.1b.

{Chairman Buster} Alright. That's why they never elected me as umpire..
Mr. Gurrero.

{Mr. Gurrero} You know, I've never been in favor of raising taxes, but in this case, I am. You can go to the title company and ask the title company to send out a research on properties in your neighborhood and they can tell you immediately what your property is really worth. Don't go and bother the county asking for a refund when you're not entitled to.

{Chairman Buster} Thank you. Any other comments? Now we're heading public...

{Supervisor Stone} I'll move 3.1b Staff recommendation.

{Chairman Buster} Second.

{Bill Luna, CEO} 3/2 carries

{Supervisor Ashley} This is on b?

{Chairman Buster} voting on that one. Yeah, we're doing the second to corollary item on the findings of fact cost or fees. Ok and that passes - four ayes to one nay.
Alright.